IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 8690 of 2005

Between:

G. Rajendranath Goud S/o. Late Jagannath Goud,
R/o. 1-8-497/3, Chikkadpally, Hyderabad.

..... PETITIONER

AND

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1 The Government of Andhra Pradesh Rep. by its Principal

Secretary, Revenue (Endowments) Department,

Hyderabad.
2 The Commissioner, Endowments Department, Tilak

Road, Hyderabad.
3 The Additional Commissioner, Endowments Department,

Tilak Road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or a writ, one in the nature of a Writ of Mandamus, declaring the action of the Respondents in issuing the Notification in Notice No. Rc/H1/15975/2005 dt.12-4-2005 issued by the Additional Commissioner, Endowments Department, Hyderabad, as premature, illegal, arbitrary and opposed to the directions given or observations made by the Hon'ble Supreme Court of India in a decision reported in AIR 1996 S.C. 1023.

Counsel for the Petitioner: MR.P.YADAGIRI RAO

Counsel for Respondents: GP FOR ENDOWMENTS

The Court at the admission stage made the following :

ORDER:

The petitioner is a Member of Founder's Family of Sri Venkateswara Swamy Temple, Chikkadpally, Hyderabad. Though, the temple was registered and entered in the book of endowments, Board of Trustees was never constituted, and late Sri

Jangaiah, and after him his son late Jagannath Goud used to manage the temple. The petitioner herein is declared as hereditary trustee vide order dated 23-5-1987 by the Deputy Commissioner, Endowments Department, Hyderabad while holding that the trusteeship of Sri Venkateswara Swamy Temple is held in Jangaiah's Branch of Gudidevuni family as founder. The rights of the petitioner were also recognized by the Deputy Commissioner, Endowments, Hyderabad vide order dated 17-8-1987 in O.A.No.40 of 1987. Thereafter, this court through orders dated 28-1-1997 in W.P.No.16070 of 1996 held that the petitioner is entitled to administer the subject temple. Now it is the grievance of the petitioner that he filed a representation before the Government on 12-8-2002 seeking exemption from the provisions of Section 15, and 20 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act 30 of 1987) for the appointment of Trust Board and also the Executive Officer. It is further submitted that as he is the member of the founder's family he has to become the chairman of the trust board, which is going to be constituted by the Government. It is further submitted that the Government has not amended Sections 15 and 17 as observed by the Supreme Court in **Pannalal Bansilal Patil v. Sate of A.P**. Therefore the notification is liable to be set aside and the Government has no power to issue notification to constitute the Board of Trustees without disposing of his representation pending before the Government in view of the fact that no amendment is made to Section 15 and 17 of Act 30 of 1987.

On the other hand, the learned Government Pleader for Endowments submitted that Sections 17 and 20 were amended in the year 2002 and a provision was added to Section 17 of Act 30 of 1987 by way of explanation Therefore, the writ petition is liable to be dismissed as premature.

Section 17 of Act 30 of 1987 reads as under:

" Section 17: Procedure for making appointments of trustees and their term:-

(1) In making the appointment of trustees under Section 15 of the Government, the Commissioner, the Deputy Commissioner or the Assistant Commissioner as the case may be, shall have due regard to the religious denomination or any such section thereof to which the institution belongs or the endowment is to which the institution belongs or the endowment is made and the wishes of the founder.

Provided that one of the trustees shall be from the family of the founder, if qualified.

Section 20 of Act 30 of 1987 reads as under"

Section 20: Chairman of the Board of trustees:- (1) In the case of charitable religious institution or endowment and for which a Board of trustees is constituted under Section 15, the members of the Board of Trustees shall, within such period not exceeding sixty days and in such manner as may be prescribed, elect from among themselves, the Chairman; and if no Chairman is elected within the prescribed period, the Government in the case of a Board of trustees constituted under clause (a) of sub-section (15) and the Commissioner in the case of any other Board of Trustees shall nominate one of the members as Chairman.

2. A Chairman elected or nominated under sub-section (1) shall hold office so long as he continues to be a member of the Board of trustees.

Considering the facts and circumstances of the case and the contention of the learned counsel for the petitioner that Section 15 of the Act was not amended but explanation was added to Section 17 of the Act to appoint a member as trustee and as a Chairman of the trust board, unless and until the application is considered by the Government, as per the qualifications prescribed under Sections 15 and 17 of the Act the petitioner is not entitled to become as a member of the trust board or chairman of the trust board. Therefore, he cannot assail the correctness of the notification, as he is not qualified as on the date of notification. Therefore, the writ petition is premature.

But, however, taking into consideration the facts and circumstances of the case, since the application of the petitioner is pending from 12-8-2002, I deem it appropriate to direct the Government to dispose of the application before constituting the trust board, in the interest of justice.

Accordingly, the Writ Petition is disposed of. No costs.

Elipe Dharma Rao, J.

20th April, 2005

js.